Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

	)
International Settlements Policy Reform	) IB Docket No. 02-324
	)
International Settlement Rates	) IB Docket No. 96-261
	)

INITIAL COMMENTS OF IDT CORPORATION

IDT Corporation ("IDT") hereby submits its Initial Comments in response to the Commission's *Public Notice*[1] seeking further comment on the Commission's efforts to reform the International Settlements Policy ("ISP") on certain routes. For the reasons stated below, IDT respectfully requests that the Commission retain the ISP for the following 19 routes: Albania, Angola, Azerbaijan, Bhutan, Burkina Faso, Burundi, Cape Verde, Djibouti, Ethiopia, Equatorial Guinea, Gabon, Georgia, Kyrgystan, Laos, Madagascar, Namibia, Niger, Papua New Guinea and Sudan.

The ISP exists, primarily, to prevent discrimination against U.S. carriers. The requirements of the ISP include: (1) all U.S. carriers must be offered the same effective accounting rate and the same effective date for rate (non-discrimination); (2) all U.S. carriers are entitled to a proportionate share of U.S.-inbound, or return traffic (proportionate return); and (3) the accounting rate is divided evenly between U.S. and foreign carriers for U.S. inbound and outbound traffic so that inbound and outbound settlement rates are identical (symmetrical settlement rates).[2]

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[1] *Public Notice*, "Commission Lifts International Settlements Policy on Certain Benchmark-Compliant Routes, Seeks Further Comments on Other Routes," IB Docket Nos. 02-324, 96-261; DA 04-2832 (August 31, 2004).
[2] 47 C.F.R. § 43.51. *See*, "International Settlement Policy Reform and International Settlement Rates," 17 FCC Rcd 19954 at ¶ 3 (1997).

When IDT entered the telecommunications business, it relied exclusively on the wholesale offerings of U.S. facilities-based carriers to deliver IDT minutes to international destinations. Thanks to the Commission's deregulatory and pro-competitive policies, IDT has been able to build its own facilities where economically viable and to enter into direct carrier service agreements around the world. We continue to actively seek direct connect agreements with international carriers in all foreign markets to better manage the economics, capacity, and network quality needed for our business.

Because IDT, as a facilities based carrier, has benefited from the Commission's long-standing policies to achieve cost based international interconnection rates through greater competition in the U.S.-international services market, we support the Commission's continued deregulatory policies. We also believe that consumers have benefited indirectly from the Commission's policies, as carriers have passed on their savings through drastically reduced end-user rates.

However, IDT strongly believes that deregulation is warranted only when it is reasonably certain to achieve pro-competitive results. For the 19 routes mentioned above, (Albania, Angola, Azerbaijan, Bhutan, Burkina Faso, Burundi, Cape Verde, Djibouti, Ethiopia, Equatorial Guinea, Gabon, Georgia, Kyrgystan, Laos, Madagascar, Namibia, Niger, Papua New Guinea and Sudan), IDT does not believe that deregulation will have the desired result. Accordingly, IDT respectfully requests that the Commission retain the ISP for these routes. The reasons IDT oppose removal of ISP for the aforementioned 19 routes are as follows.

First, the monopoly (or near-monoply) carriers on these 19 routes have refused to extend operating agreements to IDT and, we believe, other new entrant carriers and have forced IDT to rely on resale and other indirect routing arrangements that are not as economically efficient as the direct interconnection arrangements available under a traditional operating agreement. The Commission has criticized such discriminatory behavior in the past as contrary to the U.S. public interest. One of the cornerstones of the current FCC International Settlement Policy is the non-discriminatory treatment of all U.S. carriers. It is our assertion that this protection has not been provided to IDT and many U.S. carriers under the ISP and, if the ISP removed in markets that *already* discriminate, there will be greater discrimination where there is reduced regulatory oversight. Absent continued intervention and oversight by the Commission and other U.S. government agencies, new carriers (such as IDT) will not be able to fairly compete with facilities based U.S. carriers that presently dominate the market through their exclusive or near exclusive agreements on the routes in question. Furthermore, we request that, in order to assist in the non-discriminatory treatment of all U.S. carriers, the Commission should make clear that its remaining broad authority to protect U.S. consumers includes the requirement that foreign carriers extend interconnection agreements to all U.S. carriers on a non-discriminatory basis and that the Commission will act promptly to resolve discrimination claims brought to its attention.

In addition to these concerns, the evidence presented in this docket demonstrates that for each of the 19 routes listed by IDT, there are few or even no agreements at or below the current benchmarks. For example, no carrier has certified that it has negotiated current rates at or below the relevant benchmarks on the following routes: Angola, Bhutan, Burundi, Djibouti, Kyrgyzstan, Laos, Madagascar, Niger and Papua New

Guinea.[3] Only one carrier has certified that it has negotiated current rates at or below the relevant benchmarks on the following routes: Albania, Azerbaijan, Burkina Faso, Cape Verde, Equatorial Guinea, Ethiopia, Georgia and Namibia.[4] Only two carriers have certified that they have negotiated current rates at or below the relevant benchmarks on the following routes: Gabon and Sudan. Where there are no agreements at or below the current benchmark, the Commission cannot remove the route from the ISP. Where there are only one or two agreements at or below the benchmark, the Commission should not remove the route from the ISP because the routes are not sufficiently open to competition.

[3] AT&T has stated that it has previously negotiated rates at or below the relevant benchmarks, but those rates have expired, for: Angola, Djibouti and Niger.
[4] AT&T has stated that it has previously negotiated rates at or below the relevant benchmarks, but those rates have expired, for: Burkina Faso, Cape Verde and Ethiopia.

In conclusion, IDT applauds the Commission for its policies that have positively impacted US-international competition. In furthering the Commission's long stated goals, IDT recommends that the Commission not remove the ISP from the following routes: Albania, Angola, Azerbaijan, Bhutan, Burkina Faso, Burundi, Cape Verde, Djibouti, Ethiopia, Equatorial Guinea, Gabon, Georgia, Kyrgystan, Laos, Madagascar, Namibia, Niger, Papua New Guinea and Sudan until such time that the Commission can determine that a sufficient number of carriers have entered into agreements at or below the current benchmark for each route *and* that each route is not closed – formally or informally - to new entrants.

Respectfully submitted,

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October 15, 2004